

Road being now known as Freedom Drive) lying between Lindbergh Avenue on the west and the sixteen (16) foot alley on the east. That the "Park" was vacated due to its small size and a policy of The City of Frederick not to accept parcels containing less than three (3) acres for park land. That the extension of Swastika Road was vacated due to the hazardous alignment of the intersection of Swastika Road and Lindbergh Avenue.

5. That neither the "Park" nor the extension of "Swastika Road" have been developed nor constructed; nor have either parcel been used as a park or roadway by the public.

6. That on or about 11 August 1983, The City of Frederick entered into an agreement to sell the property, along with other real property, unto the Complainant, M. S. Milliner Construction, Inc.

7. That on or about 12 September 1983, the Frederick City Planning Commission approved a final plat of subdivision known as "Lindbergh Square", submitted by M. S. Milliner Construction, Inc. (copy of said plat is attached hereto as Complainants' Exhibit No. 4); that portions of the PROPERTY are contained in Lots 1 and 5, as set forth on said Plat.

8. That the restrictive covenants set forth in Exhibit No. 1 may prevent the construction of dwelling houses or other buildings and fencing on the property, contrary to the approved plan of subdivision; thereby making title to the PROPERTY uninsurable.

9. That the restrictive covenants imposed on the PROPERTY were not part of a general plan of improvement adopted for the whole community.

10. That the vacation of the extension of "Swastika Road" and the "Park" by The City of Frederick has caused a change in the character of the PROPERTY so that the restrictive covenants no longer serve their intended purpose.

11. That the restrictive covenants are of no benefit to the Respondents.

12. That John W. Grove departed this life on or about 9 December 1957, leaving a Will which is recorded among the Will Records of Frederick County, Maryland, in Liber H.D.R. 3, folio 368. That under the terms of said Will, John W. Grove left the residue of his Estate, IN TRUST, to Amy Bopst Grove, with the remainder to be distributed unto his grandchildren,